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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,288	11/28/2000	Rudolf Ritter	PM275385	8925

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

MCCLELLAN, JAMES S

ART UNIT PAPER NUMBER

3627

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/701,288

Applicant(s)

RITTER ET AL.

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 2, 2004 has been entered.

### ***Amendment***

2. Applicant's submittal of an amendment was entered on July 2, 2004, wherein:

- claims 1-21 are pending;
- claims 1, 2, 6-9, 11, and 15 have been amended; and
- claims 18-21 have been added.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1, 2, 4, 6, 7, 9, 11, 12, 15, 16, and 18-21 rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,356,752 (hereinafter “Griffith”).

Regarding **claim 1**, Griffith discloses a payment transaction method between a portable device (103) and a service point (106), comprising: determining a total transaction amount (inherent feature of a transaction) and a transaction identification assigned to a the total transaction amount (see column 3, lines 57-60), wherein the transaction identification includes a service point terminal identification (see column 3, lines 49-52); informing the customer about the total transaction amount and the transaction identification (see column 2, lines 15-18); entering the transaction identification into the mobile device (see column 3, line 60); extracting the payment terminal identification from the transaction identification (see column 2, lines 41-42); wirelessly transmitting by the mobile device the transaction identification to the payment terminal (see column 3, lines 58-59); wirelessly transmitting by the payment terminal a payment request to the portable device (requesting confirmation from the user); preparing a payment record in the portable device (see column 4, lines 1-8); and wirelessly transmitting the payment record from the portable device to the payment terminal (see column 3, lines 50-52 ); **[claim 2]** a sender identification is co-transmitted (it is inherent that sender identification is co-transmitted because the service point communicates back with the portable device); **[claim 4]** submitting type of payment (see column 3, lines 50-58); **[claim 18]** entering including using operating elements of the portable device to manually enter the transaction identification into the mobile device (see column, 3, lines 65-67); and **[claim 19]** the entering includes using receiving the transaction identification from the terminal to the portable device (see column 3, lines 58-64).

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Regarding **claim 6**, Griffith discloses a payment transaction system as described in detail above for the payment transaction method of claim 1. Dependent **claims 7, 9, 20 and 21** are similar to claims 2 and 4 outlined above for method claim 1.

Regarding **claim 11**, Griffith discloses a method for performing a payment transaction as described in detail above for the payment transaction method of claim 1. Dependent **claim 12** is similar to claim 2 outlined above for method claim 1.

Regarding **claim 15**, Griffith discloses a system for performing a payment transaction as described in detail above for the payment transaction method of claim 1. Dependent **claim 16** is similar to claim 2 outlined above for method claim 1.

5. Claims 3, 8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith in view of U.S. Patent No. 5,943,610 (hereinafter "Endo").

Griffith fails to expressly disclose increasing wireless transmitting power between the two communication interfaces.

Endo teaches the use of increasing transmitting power between two communication devices when contact is not originally available (see ABSRACT).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Griffith with transmission power increase as is well known in the art, because increasing transmission power will increase the overall range of communication between the two devices and thereby improve overall operation of the communication system.

6. Claims 5, 10, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith in view of U.S. Patent No. 6,016,476 (Maes et al.).

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Griffith shows all the claimed elements as set forth above except for the use of a biometrics feature for identifying a user.

Maes et al. teaches the use of a biometrics feature for identifying a user during an electronic transaction (see sensor 40 in column 5, lines 54-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Griffith with a biometric sensor as taught by Maes et al., because a biometric sensor provides a secure means of identifying the user, wherein reducing the likelihood of an improper transaction.

### ***Response to Arguments***

7. Applicant's arguments filed July 2, 2004 have been fully considered but they are not fully persuasive to overcome all prior art.

All arguments are moot in view of the new grounds of rejection.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Morrill, Jr. is cited of interest for disclosing a wireless system for conducting financial transactions.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

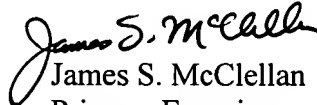
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks  
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or  
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,  
Arlington, VA, 7<sup>th</sup> floor receptionist.

  
James S. McClellan  
Primary Examiner  
A.U. 3627

jsm  
September 6, 2004